

ILLINOIS POLLUTION CONTROL BOARD  
October 28, 1976

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 75-267  
 )  
 TERMINAL RAILROAD ASSOCIATION OF )  
 ST. LOUIS, a Missouri corporation, )  
 )  
 Respondent. )

INTERIM OPINION AND ORDER OF THE BOARD (by Mr. Zeitlin):

This matter is before the Board on a Complaint filed by the Environmental Protection Agency (Agency) on July 9, 1975. That Complaint alleged that, from August 10, 1973 until the filing of the Complaint, Respondent Terminal Railroad Association of St. Louis (Terminal Railroad) caused and allowed the emission of noise from its railway switching terminal in the city of Venice, Madison County, Illinois, in violation of Rules 102 and 202 of Chapter 8: Noise Pollution, of this Board's Rules and Regulations, and Section 24 of the Environmental Protection Act (Act). Ill. Rev. Stat., Ch. 111-1/2, §1024 (1975); Ill. PCB Regs., Rules 102 and 202.

A hearing was held in this matter on February 19, 1976, at which the parties submitted a Stipulation and Proposed Settlement (Stipulation), which was filed with the Board on June 21, 1976. In an Interim Order entered July 22, 1976, the Board on its own Motion granted the parties leave to amend that Stipulation to reflect certain actions which have been taken by Terminal Railroad for noise abatement purposes. A Supplemental Stipulation was filed by the parties pursuant to that Interim Order on September 17, 1976, indicating those results.

Terminal Railroad's Venice switching yard consists of 32 parallel railway tracks, where railroad cars are received and switched by a humping operation to appropriate tracks for removal. Switching operations are conducted 24 hours a day, seven days a week, with 1,200 to 1,500 cars being humped per day.

This case is concerned with an automatic retarder system constructed between 1972 and 1974 at the Venice switching yard. That system, consisting of one master retarder and five group retarders, along with a sixth group of secondary retarders now being constructed, reduces the speed of railroad cars by grasping the metal wheel of the car. The parties stipulate that in approximately 20 per cent of retarder operations, a high pitched, screeching

sound is produced. Five investigations by the Agency between November, 1974 and July 5, 1975 indicated that retarder noise exceeded the limitations in Rule 202 for the 2,000 and 4,000 Hertz levels, and constituted a prominent, discreet tone, violating Rule 207.

Respondent's switching yard is bordered on three sides by residential areas, (Stip. Ex. 2), the residents of which have complained about noise from Respondent's retarders, (Stip. Ex. 3(a)-H).

The difficulty with this matter arises from the stipulation of the parties that proven technology to allow compliance with Rules 202 and 207 did not exist with respect to Terminal Railroad's retarders during the period of the Agency's investigation; the parties further agreed that, at the time of the Stipulation in this matter, proven technology still did not exist.

Terminal Railroad did, however, agree to experimentally install sound barriers around the retarders of a new type designed by Agency personnel. That barrier, completed in October, 1975, did achieve a noise level reduction of 18 dB, which still was not enough to bring the facility into compliance with Rule 202. Subsequently, Respondent also installed noise-attenuating material in conjunction with those barriers in accord with specifications provided by the Agency. The original Stipulation filed in this matter provided for construction of such barriers with sound-absorptive materials for all retarders in the Venice switching yard by May 1, 1976.

Subsequent to our July 22, 1976 Interim Order, additional sound level tests were conducted by the Agency. The result, in Exhibit 1 to the Supplemental Stipulation, indicate a continued violation of Rule 207, and perhaps a continued violation of Rule 202.

Those tests, however, also indicate that a considerable effort has been made by Respondent, and that noise emissions from Respondent's retarders has been significantly reduced. Prior to installation of the barriers, the highest levels recorded at the 2,500 Hz 1/3 - octave band were 80-85 dB. Subsequent to installation of the barriers, the highest levels at that 1/3-octave band are 60-65 dB. Respondent has thus achieved a reduction of 20-25 dB at that level, (Supplemental Stip., ¶4).

The Supplemental Stipulation also indicates that any interference with the enjoyment of life or property resulting from noise emission by Respondent's retarders has been greatly reduced, or even eliminated. An Agency canvass of the residential areas near the retarders showed that of approximately 65 households canvassed, none of the residents felt that retarder was still a noise problem, (Supplemental Stip., ¶6).

In light of the substantial reduction in noise emissions and the results of the Agency's canvass in the area, we find the stipulated settlement in this matter to be generally acceptable. That Stipulation, although not providing for penalty, provided for a finding of violation by Terminal Railroad and construction of the noise barriers described above. In the Supplemental Stipulation, the parties agree that any continuing violations should properly be the subject of a Variance Petition before this Board.

We agree with the parties that the proper forum in this case for examination of those issues is a Variance proceeding. However, the simple fact of those continuing violations troubles us. The parties' stipulation as to proven technology, although stipulated, is not supported by either testimony or proof.

We therefore feel that the case must be remanded for further proceedings to supply the necessary testimony and/or evidence showing more clearly the appropriate levels of present technology, as related to the problems at Terminal Railroad's Venice switching yard delineated above. Without such additional testimony or evidence we are unable to give full acceptance to the Stipulation in this matter.

We note finally that Respondent admits violation of Rule 207 on the Stipulation, although the original pleadings do not allege such violation. The Complaint should be amended appropriately.

INTERIM ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that this matter be remanded to the Hearing Officer for such proceedings as may be appropriate, in conformity with the foregoing Interim Opinion.

Mr. Jacob Dumelle concurred.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Interim Opinion and Order were adopted on the 28<sup>th</sup> day of October, 1976, by a vote of 5-0.



Christan L. Moffett, Clerk  
Illinois Pollution Control Board